
(1982) 07 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No. 2155 CII of 1981 in Civil Revision No. 497-A of 1966

Sir Sahabji Maharaj Mills Ltd.

APPELLANT

Vs

Chuni Lal

RESPONDENT

Date of Decision : 19-07-1982

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152

Citation : AIR 1983 P&H 284

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Judgement

1. This application has been filed on behalf of Chuni Lal respondent u/s 152 of the C.P.C. for rectifying the order dated 15th Dec., 1967 passed by Gurdev Singh, J. in the Civil Revision. It is stated that the learned Judge had observed in the judgment that Shri Sukh Dayal Gandhi did not have the courage to deny that the rent was enhanced from Rs. 3/- to Rs. 6/- after the respondent had ceased to be in the employment of the Company. It is further stated that in fact the rent was enhanced from Rs. 3/- to Rs. 5/- but through oversight it has been observed in the judgment that it was enhanced from Rs. 3/- to RS. 6/- . It is consequently prayed that the alleged mistake be rectified and the digit 6 be changed to digit 5. The notices were issued to the revision-petitioner who has not appeared in spite of service. The file of the Rent Controller was also ordered to be summoned but a report has been received that it had been destroyed according to the rule.

2. It is contended by Mr. Verma that the learned Judge misread the statement of Shri Sukh Dayal Gandhi who had stated that the rent was enhanced from Rs. 3/- to RS. 6/- . He further submits that in the judgment of the Rent Controller and the Appellate Authority it is clearly stated that the rent had been enhanced from Rs. 3/- to Rs. 5/- which is also the correct position. According to him in view of the aforesaid situation an order of rectification may be passed.

3. I have considered the argument but regret my inability to accept it. In order

to deal with the argument the part of the judgment, which is sought to be rectified, is reproduced below:----

"It is significant that Shri Sukh Dayal Gandhi, P.W. 1 was examined by the petitioner-company is not even have the courage to deny that the rent was enhanced from RS. 3/- to RS. 6/- after the respondent had ceased to be in the employment of the company."

From the above quotation it is clear that the applicant wants rectification of the part of the judgment reproducing the statement of Sukh Dayal Gandhi. It is true that under S. 152 of the Code, clerical mistakes in the judgment or errors rising therein from any accidental slip can be corrected. However, a heavy onus lies on the applicant to show that there is a mistake in the judgment and the same squarely falls within the purview of the section. In the present case the alleged mistake relates to the reproduction of the statement of Sukh Dayal Gandhi and it is for the applicant to show that the statement was not correctly reproduced. On a request of the counsel for the applicant the file was summoned for that purpose but a report is received from the Officer. In charge, General Record Room, Amritsar that the file was destroyed in 1975 according to the rules. Without looking into the original statement of the said witness it cannot be said that the statement was not correctly reproduced by the learned Judge in the judgment. It may be highlighted that the application for rectifying has been filed after more than 13 years of the rendering of the judgment. Therefore, it is also difficult to believe that during all these years the mistake did not come to the applicant's notice

4. The learned counsel referred to the judgment of the Rent Controller and the Appellate Authority and made a request to rectify the alleged mistake on the basis of the observations therein. The arguments fallacious. It is well settled that the judgment of the courts below merge in the judgment of the High Court. Consequently, the observations of the lower Courts cannot be taken into consideration for correcting the judgment of the High Court. I am, therefore, of the opinion that the judgments of the Rent Controller and the Appellate Authority are not relevant and therefore cannot be taken into consideration for the purposes of rectification of the alleged mistake in the judgment of Gurdev Singh J.

5. For the aforesaid reasons I do not find any merit in the application and dismiss the same with no order as to costs.

6. Application dismissed.